

Sixth Appellate District

San Jose, California

MONDAY, AUGUST 18, 2003

H022984 PEOPLE v. PUGH

(Filed order modifying opinion.) This modification does not affect the judgment. The petition for rehearing is denied. (not published)

(Mihara, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed August 18, 2003

TUESDAY, AUGUST 19, 2003

H023393 PEOPLE v. BURNETT

By the Court*:

Appellant's petition for rehearing is denied.

Filed: August 19, 2003

*Before Rushing, P.J., Premo, J. and Elia, J.

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Elia, Acting P.J.; Wunderlich, J.; Mihara, J.; and J. Michel Casique, Deputy Clerk.

H024169 PEOPLE v. LEE

Cause called and argued by Irma Castillo appearing for Appellant and by Allan Yannow, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H025434 ESTATE OF MURPHY

Cause called with James K. Roberts and Nevo F. Capitina appearing for Appellants and Seth Joseph Feinberg and Mary K. Simpson appearing for Respondents. Cause continued to a date and time to be determined by the Court.

H024558 GILBERT v. GREMMINGER

Cause called and argued by Rodney G. Moore appearing for Appellants and by Alan Nudelman appearing for Respondent. Cause ordered submitted.

H024363 COURT HOUSE PLAZA COMPANY v. CO. OF SANTA CLARA, et al.

Cause called and argued by Jeffrey P. Widman appearing for Appellant and by Marcy L. Berkman, Deputy County Counsel, appearing for Respondents. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, August 19, 2003 (continued)

Wunderlich, J. leaves the bench and Rushing, P.J. takes the bench.

H022035 LETONA v. COUNTY OF SANTA CLARA, et al.

Cause called and argued by Louis Spitters appearing for Appellant and by Martin H. Dodd appearing for Respondents. Cause ordered submitted.

H024223 TATRO & WHEELER, INC v. DICKSON-NEWELL, et al.

Cause called and argued by Thomas Murphy appearing for Appellant and by Ryan Werner appearing for Appellants. Cause ordered submitted.

H024788 TATRO & WHEELER, INC. v. DICKSON-NEWELL, et al.

Cause called and argued by Thomas P. Murphy appearing for Appellant and by Ryan Werner appearing for Respondents. Cause ordered submitted. Court recesses until 1:30 p.m.

H023781 PEOPLE v. MYINT

The judgment is reversed and the matter is remanded for resentencing. The trial court is directed to vacate the order of restitution and provide notice to defendant of the amount of restitution requested by the victim in advance of the hearing. Additionally, the trial court is directed to correct the abstract of judgment to reflect that the sentence on count 2 is stayed pursuant to section 654. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed August 19, 2003

H024269 GARNIER, et al. v. BAY NETWORKS, INC.; SKLAR, et al.; GREENEWAY, et al. v. RUEHLE, et al.; SKLAR, et al.

By the Court*:

Appellants' petition for rehearing is denied.

Filed: August 19, 2003

*Before Elia, Acting P.J., Wunderlich, J. and Mihara, J.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.
Present: Rushing, P.J.; Premo, J.; Wunderlich, J.; and S. Nasson, Deputy Clerk.

Sixth Appellate District

San Jose, California

Tuesday, August 19, 2003 (continued)

H022435 CHERITON v. FRASER

Cause called and argued by Timothy Broderick appearing for Appellant and by Bernard Wolf appearing for Respondent. Cause ordered submitted.

H023538 COUNTY OF SANTA CLARA v. RUCKER

Cause called and argued by Harold Rucker appearing in propria persona and by Mary Dahlberg, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024041 PEOPLE v. GARZA

Cause called and argued by Alan Siraco appearing for Appellant and by David Rose, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. Premo, J. leaves the bench and Mihara, J. takes the bench.

H024510 PEOPLE v. VILLANUEVA

Cause called and argued by Meredith Fahn appearing for Appellant and by William Kuimelis, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. Court adjourns.

H023290 PEOPLE v. JOHNSON

By the Court*:

Appellant's petition for rehearing is denied.

Filed: August 19, 2003

*Before Premo, Acting P.J., Bamattre-Manoukian, J. and Wunderlich, J.

H024890 PEOPLE v. DIGIROLAMO

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Elia, Acting P.J., Wunderlich, J.)

Filed August 19, 2003

H024332 MORRIS, et al. v. STATE OF CALIFORNIA

By the Court*:

Respondent's petition for rehearing is denied.

Filed: August 19, 2003

*Before Rushing, P.J., Elia, J. and Mihara, J.

Sixth Appellate District

San Jose, California

Tuesday, August 19, 2003 (continued)

H024299 PEOPLE v. SANCHEZ

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Rushing, P.J., Wunderlich, J.)
Filed August 19, 2003

WEDNESDAY, AUGUST 20, 2003

H024842 PEOPLE v. REYES

The judgment is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 20, 2003

H023963 PEOPLE v. URIBE

The true finding on the allegation that count 16 was committed during an aggravated burglary (§ 667.61, subds. (a) and (d)(4)) is reversed. The term of 25-years-to-life imposed for count 16 pursuant to section 667.61, subdivisions (a) and (d)(4) is stricken, and the stayed term of 15-years-to-life for count 16 pursuant to section 667.61, subdivisions (b) and (e)(5) is imposed. The judgment is further modified to reflect a restitution fine of \$10,000. The clerk of the superior court shall forward a copy of the amended abstract of judgment to the Department of Corrections. As so modified, the judgment is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 20, 2003

H024780 PEOPLE v. BAKER

The judgment and restitution awards are affirmed. (not published)
(Mihara, J.; We concur: Elia, Acting P.J., Wunderlich, J.)
Filed August 20, 2003

H025716 In re VICTORIA R.; DFCS. v. THOMAS M.

The order of the juvenile court terminating parental rights is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 20, 2003

Sixth Appellate District

San Jose, California

Wednesday, August 20, 2003 (continued)

H025049 FROMM, et al. v. QUINLIVAN, et al.

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)
Filed August 20, 2003

H024140 STATE BANK OF CROSS PLAINS v. HUSET

The court's order awarding fees and costs is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 20, 2003

H024053 GREAT AMERICAN INSURANCE COMPANIES v. MARCHANT, et al.

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Rushing, P.J., Elia, J.)
Filed August 20, 2003

THURSDAY, AUGUST 21, 2003

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Bamattre-Manoukian, J.; and Jane V. Flor, Deputy Clerk.

H024364 DYMOND CONSTRUCTION GROUP, INC. v. WELLS FARGO BANK

Cause called and argued by David R. Beck appearing for Appellant and by David Jon Rapson appearing for Respondent. Cause ordered submitted.

H024771 DIGIOVANNI v. DIGIOVANNI

Cause called and argued by Russell J. Hanlon appearing for Appellant and by Bradford Baugh appearing for Respondent. Cause ordered submitted.

H024119 JC RESEARCH, INC. v. GLOBAL OVERLAND DELIVERY, INC., et al.

Cause called and argued by John David Nelson appearing for Appellant and by Hillary Arrow Booth appearing for Respondent Global Overland Delivery, and by James Attridge appearing for respondent Covenant Transport. Cause argued and submitted.

Sixth Appellate District

San Jose, California

Thursday, August 21, 2003 (continued)

H024726 LINDOP, Acting Public Guardian v. DEFINA, et al.

Cause called and argued by Syde Defina appearing in pro per and by Tamara K. Lopez, Deputy County Counsel, appearing for Respondent. Cause ordered submitted. Premo, J. leaves the bench and Wunderlich, J. takes the bench.

H024864 ANDRADE v. FISHER

Cause called and argued by John A. Colistra appearing for Appellant and by James P. Cilley appearing for Respondent. Cause ordered submitted.

H021125 PEOPLE v. LELEI, et al.

Cause called and argued by Kyle Gee appearing for Appellant Lelei and by Lori Klein appearing for Appellant Tevaga and by Lawrence Gibbs appearing for Appellant Valdez and by Rene A. Chacon, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. Court recesses until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and Beth Miller, Deputy Clerk.

H023840 FUENTAS v. SHIN CATERPILLAR MITSUBISHI, LTD., et al.

Cause called and argued by Alfred Lombardo appearing for Appellant and by Douglas J. Collodel appearing for Respondent Shin Caterpillar and by Don Ramsey appearing for Respondent Bridgestone Firestone. Cause ordered submitted.

Premo, J. and Elia, J. leave the bench and Bamattre-Manoukian, J., and Mihara, J. take the bench.

H022862 ZAMANI v. SIMONS, et al.

Cause called and argued by Harold A. Justman appearing for Appellants and by Ronald R. Rossi appearing for Respondent. Cause ordered submitted.

Rushing, P.J. leaves the bench and Wunderlich, J. takes the bench.

Sixth Appellate District

San Jose, California

Thursday, August 21, 2003 (continued)

H023444 H023848 FLEXTRONICS INTERNATIONAL USA, INC. v. CURTIS

Causes called and argued by Jeffrey Bruce Kirschenbaum
appearing for Appellant and by Carl L. McConnell appearing for
Respondent. Causes ordered submitted.

H024824 COUNTY OF SANTA CLARA v. MORRIS

The order under review is reversed. The matter is remanded
to the trial court for further proceedings to determine the
amount of arrearages. (not published)

(Wunderlich, J.; We concur: Rushing, P.J., Mihara, J.)

Filed August 21, 2003

H024893 PEOPLE v. RICHARD

The judgment is affirmed. (not published)

(Premo, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed August 21, 2003

H024818 MARIAGE OF BARAPOUR and HATAMI

The order appealed from is affirmed. (not published)

(Rushing, P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed August 21, 2003

H023837 PEOPLE v. MARINAS

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Elia, J., Mihara, J.)

Filed August 21, 2003

H024813 MCNAIR v. NELSON-HILLMAN

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)

Filed August 21, 2003

H024936 PEOPLE v. COLE

The judgment is affirmed. (not published)

(Wunderlich, J.; We concur: Rushing, P.J., Mihara, J.)

Filed August 21, 2003

Sixth Appellate District

San Jose, California

Thursday, August 21, 2003 (continued)

H024867 PEOPLE v. GARCIA

H025562 GARCIA on Habeas Corpus

The judgment is affirmed. The petition for writ of habeas corpus is denied. (not published)

(Rushing, P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed August 21, 2003

H024410 PEOPLE v. SCRIBNER

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)

Filed August 21, 2003

H023531 PEOPLE v. SANCHEZ

The judgment is reversed and remanded to the trial court for possible retrial. (not published)

(Rushing, P.J.; We concur: Elia, J., Mihara, J.)

Filed August 21, 2003

H024604 In re DAVID F., et al.; DFCS v. JUANITA F.

The order appealed from is affirmed. (not published)

(Rushing, P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed August 21, 2003

FRIDAY, AUGUST 22, 2003

H025311 PEOPLE v. PEREZ

The judgment is affirmed. (not published)

(Bamattre-Manoukian, J.; We concur: Rushing, P.J., Premo, J.)

Filed August 22, 2003

H025663 PEOPLE v. HARRAH, JR.

The judgment is affirmed. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed August 22, 2003

Sixth Appellate District

San Jose, California

Friday, August 22, 2003 (continued)

H024673 PEOPLE v. OLIVEIRA

The judgment is modified to reflect a conviction in count seven of being under the influence of a controlled substance. In all other respects, the judgment is affirmed. (not published) (Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)

Filed August 22, 2003

H023613 ENGINEERED PACKAGING SERVICES v. R.A. VEGA INTERNATIONAL, INC., et al.

The order is affirmed. Plaintiff is entitled to costs on appeal, including reasonable attorney fees, subject to an appropriate motion in the trial court. (*Harbour Landing-Dolfann, Ltd. v. Anderson* (1996) 48 Cal.App.4th 260,263.) (not published) (Wunderlich, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed August 22, 2003

H024364 DYMOND CONSTRUCTION GROUP, INC. v. WELLS FARGO BANK,

The judgment of dismissal as to defendant Wells Fargo Bank, N.A. is affirmed. (not published)

(Bamattre-Manoukian, J.; We concur: Rushing, P.J., Premo, J.)

Filed August 22, 2003